

House File 432 - Introduced

HOUSE FILE 432
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 158)

A BILL FOR

- 1 An Act relating to access by certain entities to specific
- 2 records and documents maintained by a unit owners
- 3 association.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **499C.1 Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. *"Bylaws"* means the instruments, however denominated, that
5 contain the procedures for conducting the affairs of a unit
6 owners association or an executive board regardless of the form
7 in which the association is organized, including any amendments
8 to such instruments.

9 2. *"Common element"* means:

10 *a.* For a cooperative under chapter 499A or a horizontal
11 property regime under chapter 499B, all portions of the common
12 interest community other than the units.

13 *b.* For a planned community, any real estate within the
14 planned community which is owned or leased by the unit owners
15 association, other than a unit.

16 *c.* For all common interest communities, any other interests
17 in real estate for the benefit of unit owners identified in the
18 declaration.

19 3. *a.* *"Common interest community"* means real estate
20 described in a declaration with respect to which a person,
21 by virtue of the person's ownership of a unit, is obligated
22 to pay for a share of real estate taxes, insurance premiums,
23 maintenance, or improvement of, or services or other expenses
24 related to, common elements, other units, or other real estate
25 described in the declaration. *"Common interest community"*
26 includes a planned community, a cooperative under chapter 499A,
27 and a horizontal property regime under chapter 499B.

28 *b.* *"Common interest community"* does not include:

29 (1) A covenant that requires the owners of separate parcels
30 of real estate to share costs or other obligations related to a
31 wall, driveway, well, or other similar structure, unless all
32 such owners consent in writing to the creation of a common
33 interest community.

34 (2) Real estate described in paragraph *"a"* if all units are
35 owned by a single owner.

1 (3) Real estate described in paragraph "a" that is managed
2 by the original developer of the real estate.

3 4. "*Declarant*" means a person or group of persons who,
4 as the record title owner of real estate, by a declaration,
5 creates a common interest community.

6 5. "*Declaration*" means the instrument, however denominated,
7 that creates a common interest community, including any
8 amendments to the instrument.

9 6. "*Executive board*" means the body, regardless of name,
10 designated in the declaration or bylaws to act on behalf of a
11 unit owners association.

12 7. "*Planned community*" means a common interest community
13 that is not solely a cooperative under chapter 499A or solely
14 a horizontal property regime under chapter 499B, and includes
15 property owner or homeowner associations. A cooperative under
16 chapter 499A or a horizontal property regime under chapter
17 499B, however, may be part of a planned community.

18 8. "*Rule*" means a policy, guideline, restriction, procedure,
19 or regulation, however denominated, which is not set forth in
20 the declaration or bylaws.

21 9. "*Unit*" means a portion of a common interest community
22 designated for separate ownership or occupancy or as otherwise
23 defined in the statute under which the common interest
24 community is organized, including but not limited to an
25 apartment as defined in section 499B.2.

26 10. "*Unit owner*" means a declarant or other person that owns
27 a unit, but does not include a person having an interest in a
28 unit solely as security for an obligation. In a horizontal
29 property regime under chapter 499B or a planned community,
30 the declarant is the owner of a unit. In a cooperative under
31 chapter 499A, the declarant is the owner of any unit to
32 which an interest has been allocated until that unit has been
33 conveyed to another person.

34 11. "*Unit owners association*" means an association,
35 regardless of name, organized as a for-profit or nonprofit

1 corporation, trust, limited liability company, partnership,
2 unincorporated association, or any other form of organization
3 authorized by the laws of this state, the membership of
4 which consists solely of unit owners except following
5 termination of the common interest community, at which time the
6 association shall consist of all former unit owners entitled
7 to distributions of proceeds or their heirs, successors, or
8 assigns.

9 Sec. 2. NEW SECTION. **499C.2 Records and documents —**
10 **access.**

11 1. A unit owners association, a unit owners association's
12 designee, or a unit owners association's management company
13 shall make all of the following records and documents available
14 to a unit owner or the unit owner's authorized agent within
15 ten business days of a request by the unit owner or the unit
16 owner's authorized agent:

17 *a.* The organizational documents for the common interest
18 community, including all amendments.

19 *b.* The unit owners association's bylaws, including all
20 amendments.

21 *c.* The rules of the common interest community, including all
22 amendments.

23 *d.* The minutes of the most recently held unit owners
24 meeting, including any financial reports. The minutes must
25 indicate the date, time, and place of the meeting, the names of
26 all persons present at the meeting, each action taken at the
27 meeting, and the results of each vote taken at the meeting.

28 *e.* The minutes of the most recently held executive board
29 meeting, including any financial reports. The minutes must
30 indicate the date, time, and place of the meeting, the names of
31 all persons present at the meeting, each action taken at the
32 meeting, and the results of each vote taken at the meeting.

33 2. A unit owners association, a unit owners association's
34 designee, or a unit owners association's management company may
35 make the records and documents under subsection 1 available to

1 a unit owner or the unit owner's authorized agent via any of
2 the following methods:

3 a. Paper copy.

4 b. Electronically to an electronic mail address provided by
5 the unit owner or the unit owner's authorized agent.

6 c. By posting the records and documents to an internet site
7 maintained by the unit owners association, the unit owners
8 association's designee, or the unit owners association's
9 management company to which the unit owner or the unit owner's
10 authorized agent has reasonable access.

11 3. A unit owners association, a unit owners association's
12 designee, or a unit owners association's management company may
13 charge a reasonable fee for all records and documents provided
14 under this section. The fee shall not exceed the estimated
15 cost of production or reproduction of the records or documents.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill relates to access by certain entities to specific
20 records and documents maintained by a unit owners association.

21 Under the bill, a unit owners association is an organization
22 of unit owners in a common interest community, including a
23 planned community, a cooperative under Code chapter 499A, or a
24 horizontal property regime under Code chapter 499B. "Common
25 interest community" is defined in the bill and exclusions from
26 the definition are detailed in the bill.

27 A unit owners association, a unit owners association's
28 designee, or a unit owners association's management company
29 (association) must make certain records and documents, as
30 detailed in the bill, available to a unit owner or the unit
31 owner's authorized agent within 10 business days of a request
32 by the unit owner or the unit owner's authorized agent.

33 An association may make the records and documents available
34 to the unit owner or the unit owner's authorized agent via
35 paper copy, electronically to an electronic mail address

1 provided by the unit owner or the unit owner's authorized
2 agent, or by posting the records and documents to an internet
3 site maintained by the association to which the unit owner or
4 the unit owner's authorized agent has reasonable access.

5 An association may charge a reasonable fee for records and
6 documents provided under the bill. The fee shall not exceed
7 the estimated cost of production or reproduction of the records
8 or documents.